



DEFENSE FINANCE AND ACCOUNTING SERVICE

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JL - 9 1999

DFAS-HQ/FMM

MEMORANDUM FOR DIRECTOR DEFENSE FINANCE AND ACCOUNTING SERVICE  
CLEVELAND CENTER  
DIRECTOR DEFENSE FINANCE AND ACCOUNTING SERVICE  
DENVER CENTER  
DIRECTOR DEFENSE FINANCE AND ACCOUNTING SERVICE  
INDIANAPOLIS CENTER  
DIRECTOR DEFENSE FINANCE AND ACCOUNTING SERVICE  
KANSAS CITY CENTER  
PROGRAM MANAGER, DEFENSE JOINT MILITARY PAY SYSTEM

SUBJECT: Interim Change to DoDFMR Vol 7A, Chapter 48, Revised  
Provisions for Court-martial Sentences Including  
Forfeitures (DFAS Item H-26)

Attached is DFAS Interim change 21-99 to modify Chapter 48  
of the DoDFMR, Vol 7A.

This change is as a result of the decision of the United  
States Court of Appeals for the Armed Forces in United States  
vs. Gorski, 47 M.J. 370 (1997) and is effective immediately  
while applicable pay adjustments are retroactively effective  
April 1, 1996.

We have evaluated your comments on the draft proposal of  
this change to the DoDFMR, Volume 7A. The attached final  
version of the change incorporates your comments where  
appropriate.

Assignment of an interim change number is your authority to  
start a procedural modification to facilitate this change. For  
the Denver Center, use the attached to initiate the formal  
printed change to the DoDFMR and the interim change message.

My point of contact, LCDR Pat Stansfield, may be contacted at DSN 327-5058 or (703) 607-5058. Our FAX number is DSN 332-5271 or (703) 602-5271.

*for Edward J. Bitz*  
Gregory F. Bitz  
Director of Finance

Attachment:  
As stated

cc: DASD (MPP) (Comp)  
ODGC (F)  
DFAS-DE/DG  
Service Liaisons  
USCG/NOAA/PHS Liaisons

1. Replace the third sentence in paragraph 480303:

"Compute taxes from the remaining pay not forfeited."

2. Revise the title of paragraph 480306 to read:

"480306. Forfeiture of Pay or Pay and Allowances During Certain Court-Martial Confinements."

3. Change subparagraph 480306A to read:

"Effective with general courts-martial sentences, adjudged after 31 March 1996, for offenses committed after 31 March 1996, a member automatically forfeits all pay and allowances while in confinement or in a parole status when the member is sentenced to:

1. Death; or
2. Confinement for more than six months; or
3. Confinement of any length and either a dishonorable discharge, a bad conduct discharge, or a dismissal.

NOTE: A member who was court-martialed after 31 March 1996 for offenses committed before 1 April 1996, and whose sentence was adjudged after 31 March 1996, is not subject to automatic forfeitures. However, when a member's offense was committed during a period that began before 1 April 1996 and terminated on or after 1 April 1996, the automatic forfeiture provisions under 10 U.S.C. 858b apply. See subparagraphs 480502A and B for effective date provisions."

4. Revise subparagraph 480306B to read:

"The forfeiture provisions in subparagraph 480306A also apply for sentences adjudged by special courts-martial. However, automatic forfeitures are limited to two-thirds of all pay."

5. Add the following sentence at the end of subparagraph 480306D:

"NOTE: The net refundable automatic forfeiture amount to be paid to eligible members (see subparagraphs 480306A and 480502B) is current year taxable income subject to appropriate withholding of Federal, State, and FICA taxes."

6. Change subparagraph 480502A to read:

"For court-martial sentences, adjudged before 1 April 1996, for offenses committed before 1 April 1996, begin forfeiture of pay or pay and allowances on the date the convening authority approves that part of the sentence establishing the forfeiture and orders it executed."

7. Renumber subparagraphs 480502B and 480502C as 480502C and 480502D and insert a new subparagraph 480502B to read:

"B. For court-martial sentences, adjudged after 31 March 1996, for offenses committed before 1 April 1996, the following applies:

1. Adjudged forfeitures of pay or pay and allowances are not effective until the date the convening authority approves that part of the sentence establishing the forfeiture.

2. Automatic forfeitures imposed under 10 U.S.C. § 858b do not apply and, when applicable, retroactive pay adjustments must be made. When an automatic forfeiture being refunded to the member was waived in favor of the member's dependents, the retroactive pay adjustment must be reduced by the amount of the automatic forfeiture paid to the dependents. See subparagraph 480306C for provisions regarding waivers of automatic forfeitures."

8. Revise the first sentence in renumbered subparagraph 480502C to read:

"For court-martial sentences, adjudged after 31 March 1996, for offenses committed after 31 March 1996, begin forfeitures of pay or pay and allowances ....."

9. Revise paragraph 480701 to read:

"Forfeitures. Since court-martial forfeitures constitute a loss of entitlement to the pay or pay and allowances concerned, they constitute a reduction of pay that takes precedence over all debts (see table 52-1, rule 1)."

10. Add the following to the bibliography:

Paragraph	Citation
480306	United States v. Gorski, 47 M.J. 370 (1997)
480306A	United States v. Carter, USCA Docket # 98-5003/AF, April 16, 1998
480502	United States v. Gorski, 47 M.J. 370 (1997)